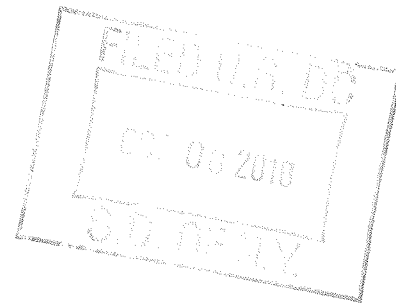


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



Sabrina Chin, )  
 )  
v. ) No. 08 Civ. 7349 (RJS)(KNF)  
 )  
RCN Corporation, )

Notice of Appeal

Notice is hereby given that Thomas J. Lavery, one of the objector-intervenors in the above-captioned matter appeals to the United States Court of Appeals for the Second Circuit from the following Orders and Judgments and Adopted Reports and Recommendations:

- Order of the Honorable Richard J. Sullivan, United States District Judge, filed on July 20, 2009, referring this case to a magistrate judge for settlement (ECF# 23);
- Order of the Honorable Kevin Nathaniel Fox, United States Magistrate Judge, filed on September 15, 2009, scheduling a settlement conference (ECF # 32);
- Agreement and Order of District Judge Sullivan, filed on September 25, 2009, governing the treatment of confidential information (ECF # 33);
- Order of Magistrate Judge Fox, filed on October 9, 2009, scheduling a preliminary fairness review hearing (ECF # 34);
- Report and Recommendation of Magistrate Judge Fox, filed on March 12, 2009, recommending that District Judge Sullivan certify the proposed settlement class, appoint Sabrina Chin class representative, appoint

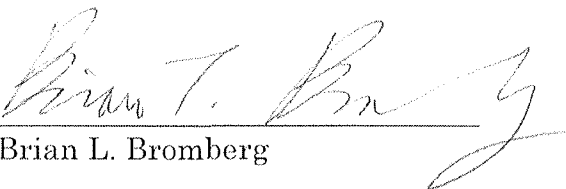
Reese Richman LLP counsel for the settlement class, preliminarily approve the Class Action Settlement Agreement, approve the Notice of Pendency and Settlement of Class Action, directing manner of notice, and scheduling a hearing for final approval (ECF # 38);

- Order of District Judge Sullivan, filed on March 29, 2010, adopting the Report and Recommendation of Magistrate Judge Fox, recommending that District Judge Sullivan certify the proposed settlement class, appoint Sabrina Chin class representative, appoint Reese Richman LLP counsel for the settlement class, preliminarily approve the Class Action Settlement Agreement, approve the Notice of Pendency and Settlement of Class Action, directing manner of notice, and scheduling a hearing for final approval (ECF # 40);
- Order of District Judge Sullivan, filed on June 3, 2010, denying the motion of Appellant Thomas Lavery, dated June 1, 2010, seeking permission to file a motion to intervene and that the June 4, 2010 settlement conference be adjourned to allow time for the motion to be filed (ECF# 53); and
- Memorandum and Order of District Judge Sullivan, filed on September 8, 2010, certifying the proposed class, which consists of all persons in the United States who, between August 19, 2003 and July 31, 2009, subscribed to RCN's broadband Internet service, appointing Sabrina Chin as class representative, appointing Michael R. Reese of Reese Richman LP

as class counsel, approving the Settlement Agreement (ECF # 31-2, as amended by ECF# 37-2\_, awarding attorney fees of \$520,000 and \$20,000 in costs to class counsel, awarding an incentive fee in the amount of \$3,000 to Sabrina Chin, overruling and rejecting the objections of Thomas J. Lavery and the other objector-intervenors, dismissing the case with prejudice, and directing the Clerk of the Court to close the case, for the reasons given in the Memorandum and Order (ECF# 58).

Dated:           October 8, 2010  
                  New York, New York

Respectfully submitted,

  
Brian L. Bromberg

Attorneys for Objector-Intervenor  
Thomas J. Lavery

Brian L. Bromberg  
Bromberg Law Office, P.C.  
40 Exchange Place, Suite 2010  
New York, NY 10005  
Tel: (212) 248-7906

Mark T. Lavery  
Lavery Law Firm  
733 South Lee St, Suite 150  
Des Plaines, IL 60016  
Tel: (847) 813-7771

Christopher V. Langone  
207 Texas Lane  
Ithaca, NY 14850  
Tel: (607) 216-2836

*Certificate of Service*

I, Brian L. Bromberg, an attorney, hereby certify that I caused the foregoing documents to be served on the following counsel of record on October 8, 2010, by regular first-class mail to:

Kim Eleazer Richman, Esq.  
K. E. Richman, Esq.  
230 Park Avenue, Suite 963  
New York, NY 10169  
Tel: (212) 687-8291  
Fax: (212) 687-8292  
Email: [kim@reaserichman.com](mailto:kim@reaserichman.com)

Lee A. Weiss, Esq.  
Dreier LLP  
499 Park Avenue  
New York, NY 10022  
Tel: (212) 328-6100  
Fax: (212) 328-6101  
Email: [lweiss@bwgfirm.com](mailto:lweiss@bwgfirm.com)

Michael Robert Reese, Esq.  
Reese Richman, LLP  
875 Avenue of the Americas  
18th Floor  
New York, NY 10001  
Tel: (212) 579-4625  
Fax: (212) 253-4272  
Email: [michael@reaserichman.com](mailto:michael@reaserichman.com)

Rebecca A. Tingey, Esq.  
Dreier, LLP  
499 Park Avenue  
New York, NY 10022  
Tel: (212) 652-3821  
Fax: (212) 328-6101  
Email: [rtingey@dreierllp.com](mailto:rtingey@dreierllp.com)

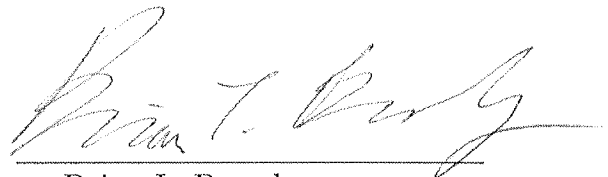
Peter Curtis Neger, Esq.  
Bingham McCutchen LLP  
399 Park Avenue  
New York, NY 10022  
Tel: 212-705-7000  
Fax: 212-702-3616  
Email: [peter.neger@bingham.com](mailto:peter.neger@bingham.com)

Matthew Derek Care, Esq.  
Bingham McCutchen LLP  
399 Park Avenue  
New York, NY 10022  
Tel: (212) 705-7162  
Fax: (212)-702-3677  
Email: [derek.care@bingham.com](mailto:derek.care@bingham.com)

Joan M. Secofsky, Esq.  
Diamond McCarthy LLC  
620 Eighth Avenue, 39th Floor  
New York, NY 10018  
Tel: (212) 430-5400  
Fax: (212)-430-5499  
Email: [jsecofsky@diamondmccarthy.com](mailto:jsecofsky@diamondmccarthy.com)

Maria M. Patterson, Esq.  
Diamond McCarthy LLC  
620 Eighth Avenue, 39th Floor  
New York, NY 10018  
Tel: (212) 430-5404  
Fax: (212)-430-5499  
Email: [mpatterson6@nyc.rr.com](mailto:mpatterson6@nyc.rr.com)

Dated: New York, New York  
October 8, 2010

  
\_\_\_\_\_  
Brian L. Bromberg